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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,537	03/28/2001	Randall K. Curey	P573C	6434
23586	7590	11/04/2005	EXAMINER	
ROBERT E MALM 16624 PEQUENO PLACE PACIFIC PALISADES, CA 90272			EL HADY, NABIL M	
			ART UNIT	PAPER NUMBER
			2152	
DATE MAILED: 11/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/821,537

Applicant(s)

CUREY ET AL.

Examiner

Nabil M. El-Hady

Art Unit

2152

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 06 September 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.



Nabil El-Hady, Ph.D, M.B.A.
Primary Patent Examiner
Art Unit: 2152

Continuation of 10. Other (including any explanation in support of the above items): According to Content and Format of the Appeal Brief (section 41.37), Rules of Practice Before BPAI effective September 13, 2004, appellant must present the appeal brief under special headings (e.g. "Grounds of Rejection to be Reviewed on Appeal" replacing both "Issues for Review" and "Grouping of Claims"), there is no separate heading for "Grouping of Claims" as presented in the revised supplemental appeal brief. According to the same Rules and Practice Before BPAI, appellant must present concise explanation of the subject matter defined in each of the independent claims involved in the appeal. A concise "explanation" of the subject matter defined in each of the independent claims may not be fulfilled by mere recitation of the claim limitations as presented in the revised supplemental appeal brief. Doing that will not serve the purpose of the appeal or the purpose of changing the title from "summary of invention" to "summary of claimed subject matter"..